



Securities and Exchange Commission of Pakistan
Adjudication Division

Through Courier

Before the Commissioner (SMD)

In the matter of Show Cause Notice issued to Float Securities (Private) Limited

Date of Hearing

November 06, 2019

Present at the Hearing

i. Mr. Imran Khalil Naseer

Representing Float Securities (Pvt.) Ltd.

(CEO/CCO)

ORDER

This Order shall dispose of the proceedings initiated against Float Securities (Pvt.) Limited (the "**Respondent**") through Show Cause Notice No. 1(175) SMD/ADJ/KHI/2019, dated October 25, 2019 (the "**SCN**") issued under Section 40A of the Securities and Exchange Commission of Pakistan Act 1997 (the "**Act**") & Section 150 of the Securities Act, 2015 ("**Securities Act, 2015**")

2. Brief facts of the case are as follows:

- (a) The Respondent is a Trading Rights Entitlement Certificate (**TREC**) holder of the Pakistan Stock Exchange Limited (the "**PSX**") and licensed as a securities broker under the Securities Act, 2015.
- (b) Thematic review (the "**Review**") of the Respondent was conducted by the Commission to ascertain compliance with requirements contained in Securities and Exchange Commission of Pakistan (Anti Money Laundering and Countering Financing of Terrorism) Regulations, 2018 (the "**AML Regulations**").

3. The Review revealed non-compliances with the AML Regulations & Securities Brokers (Licensing & Operations) Regulations, 2016 ("**Licensing Regulations**"); detailed as under:

a. Following deficiencies were noted in the AML/CFT Policy of the Respondent:

- i. Recording of reasons for reporting of Suspicious Transaction Report
- ii. Development of Employees training Program

The deficiencies in Anti Money Laundering/ Counter Financing of Terrorism (AML/CFT policy) and procedures are violations of Regulation 4(a), 18(c)(iii), 14(6) and 20(b) of AML Regulations.



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- b. The Respondent's Chief Executive Officer, Chief Compliance Officer & Internal Auditor is the same person which raises question on the independence of the internal audit and compliance function. Further, the internal audit report for the period from January 1, 2018 to June 30, 2018 did not cover all areas provided in the AML/CFT Guidelines to tests its AML/CFT systems, policies and procedures as mentioned in clause 15(a) of AML/CFT Guidelines. This shows that the Respondent acted in contravention with Regulation 4(d) & Regulation 18 of the AML Regulations. The same also reflects non-compliance of Regulation 16(9)(e) Securities Brokers (Licensing and Operations) Regulations, 2016 (the "Licensing Regulations").
- c. The Respondent's compliance report for the months of July, 2018 to February, 2019 did not cover the AML/CFT aspects which shows that the Respondent did not have independent and effective compliance function. In this regard, the compliance officer failed to fulfil its responsibilities as provided under Regulation 18(c)(ii) of the AML Regulations.
4. In view of the aforesaid, the Respondent *prima facie* acted in contravention of the AML Regulations & Licensing Regulations. The Commission therefore took cognizance of the aforesaid violations, issued SCN dated October 25, 2019 to the Respondent. The Respondent vide its letter dated October 29, 2019 submitted reply to the SCN, which is reproduced below:

1. ***Our AML /KYC policy was not updated:***

We re-iterate our earlier response confirming the update was sent on 24th July 2019. This was duly approved by the Board of Directors of FSL to include ML/TF and was sent to your offices as part of our response on 24th JULY 2019 (proof of this is being attached for your ready referencing). Should you feel any further areas need additional BODs attention, we would request you to provide adequate guidance (in this regard).

2. ***FSL's policy was deficient in the following two parts:***

a) ***Recording of reasons for reporting of Suspicious Transaction Report; We shared details of this in our earlier response as follows:***

Section # 19 of our policy deals with the STRs covering this area of Basis of Recording of STRs by FSL and its employees. Section # 19.2 specifically states how FSL and the employees will identify suspicious transactions and later sections deal with the reporting of this. Section 19.4.1 already covers the documentation part.

Section # 20 of the existing policy also specifically focuses on the Recording and procedures. However, to remove any ambiguity, we further including a sperate section 19.2.3.5 which states "Even if its is decided not to file the STR process for deciding this will be documented and recorded"

We feel this will further strengthen the area identified especially in cases where the decision is required on filing or non-filing of an STR. We also run regular general awareness for our staff in this regard.

b) ***Development of Employees Training Program.***



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Section # 21 of the existing policy already covers this point in detail (copy of this was sent). We even updated the FSL Policy to further strengthen this area. Updated version of the policy was also submitted to your offices in Karachi, which included section: 21.4.6 "FSL to implement suitable training program for its employees on annual basis". Details of training courses attended by 2 of our staff was also shared via our earlier response. Please also note details of the training courses attended by our staff were submitted to Commission along with the Bi-Annual Compliance report. We are also sharing with you details of our annual training program for next year (which we have put in place for our staff).

Reference my conversation with Madam Amna Aziz SECP office on 28-10-2019, I understand your office also requires FSL's details on Employee Development and Training Program. We are sharing further details of this for 2019/20 along with details of courses attended by our staff in 2018/19.

Our Chief Compliance Officer is a fellow of CIMA (Chartered Institute of Management Accountants - UK), who has also linked his CPD requirements to include AML / CFT and KYC subjects and reviewing international publications on ML/TF.

2. Chief Executive Officer, Chief Compliance Officer & Internal Auditor:

Being a very small private limited business (Non-public and Non-listed) with only 20 active clients and handful number of total clients (around 70). We have adequately qualified Chief Compliance officer with direct reporting to Chairman BoDs (who is also a Fellow of The Chartered Institute of Management Accountants -UK and a master in Law from UK) for AML Purposes.

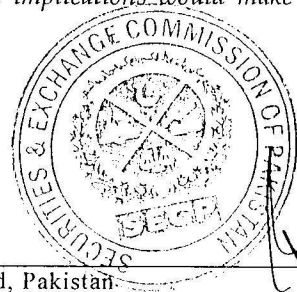
Our Chief Compliance Officer (being a qualified fellow of CIMA- Chartered Institute of Management Accountants - UK), has obtained World Bank's AML / KYC certifications, the role of Internal Audit was also supervised by him as the BODs feel, he would be most qualified and suited to oversee such assignment (for a small operation of FSL) with direct independent reporting to Chairman BOD of FSLI due to the size of our business.

This ensures the independent element. Our handful number of ACS opened were adequately referenced and their transactions are regularly monitored. FSL does not deal in general public / walk in clients. Hence adding additional resources would not be financially viable for a small company like ours (especially considering our risk profile and scale of operations). Any new ACS that we open, are appropriately referenced and we fulfil the KYC and AML/CFT requirements.

FSL's AML Policy and the Compliance report is duly signed off by the qualified Chairman BoDs (who is also a UK qualified lawyer). FSL feels, this ensures the independence element (pertaining to our business model with no public interest involvement).

It may further be noted that any additional increase in headcount hence may not be justified for a small business like FSL, which already has competent and qualified personal to supervise and oversee the Compliance of the company with AML / CFT regulations. We don't see any further risk in this area for our business, due to the nature of our business model. We also feel we meet the necessary requirements based on our size of business and our known business model. Any further cost implications would make FSL's business un-viable for a small sized company like ours.

2. Compliance Report did not cover AML/CFT aspects:





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We are attaching a copy of the Compliance report which was sent to your Karachi offices for your ready referencing, which already includes these aspects in compliance with Regulation 18 (c)(ii) of AML Regulations.

We maintain the view that we adequately already cover the AML / CFT aspects within our compliance reports being sent.

It is humbly requested that SECP may issue further guidance, (should you still feel there are any additional aspects), your office would like our qualified and World Bank's certified Chief Compliance Officer for AML/KYC purposes to further consider, for future submission for AML/CFT Purposes.

FSL places extreme importance To AML regulations and have the necessary processes in place. As this is a new area for all brokerage houses, we request the Commission to issue a minimum and not maximum standard policy specimen to all brokerage houses. This will assist smaller brokerage houses to ensure standardization of the AML policy to standards that are desired by the Commission taking into account the size of business entities and their legal status as to private / public and or listed / unlisted companies.

Policy formation, review and implementation is the responsibility of Board of Directors of FSL. Any deficient areas in your opinion should be identified and advised accordingly, so we may request the BOD to further strengthen these areas as per your guidance.

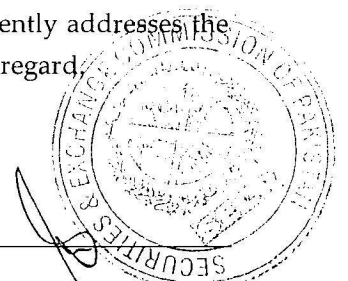
We had duly responded to all the raised queried in detail and had even provided details of training attended on AML / CFT by our staff, r f you feel you would still require us to attend the hearing via video link, we will do that as per your instructions.

Being a Council member of Chartered Institute of Management Accountants - UK, I will also be requesting CIMA to provide additional specialized training courses on this subject, for businesses in the region (by involving SECP), which may also be helpful to other brokerage houses and businesses in general."

5. The Respondent was accorded hearing opportunity on November 06, 2019. The hearing was attended by Mr. Imran Khalil Naseer (CEO/CC0) as Authorized Representatives. During the hearing proceedings, the Authorized Representatives reiterated the argument as submitted in response to the SCN.

6. I have examined the submissions of the Respondent and its Representatives. In this regard, I observe that:

- (a) With regard to the deficiencies in AML/CFT Policy, the Respondent submitted that its updated policy was shared with the Commission vide letter dated July 24, 2019 wherein the requisite two points were adequately addressed. With reference to recording of reasons for reporting of Suspicious Transactions Report, Section # 19 and 20 of the Respondent's AML/CFT policy comprehensively covers the same. Further, Section # 21 of the AML/CFT policy also covers the Employee Training Program with respect AML/CFT enforcement regime and provides for a suitable training program on annual basis. The Respondent's policy sufficiently addresses the observations raised during the review. Hence, no action is warranted in this regard.





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(b) With regard to observation regarding the independence of audit function, the Respondent submitted that it is a small sized private firm with limited capacity. The Respondent further provided that its chief compliance officer was also supervising the role of internal audit as he was most qualified and suited to oversee such assignment with direct reporting to Chairman of Board of Directors. The Respondent submitted that any additional cost incurred on human resource will make their business un-viable to operate. The justification thus provided by the Respondent is not tenable. Regulation 4(d) of the AML Regulations clearly stipulates the requirement for an independent audit function and the same is also provided in Regulation 16(9)(e) of the Licensing Regulations for Securities Brokers. Dual role of Chief Compliance Officer and Head of Internal Audit raises serious concern regarding the independence of its audit function. Therefore, the size of the business cannot be used as an excuse to exempt from the requirements of the Regulations. Further, it was also observed that the internal audit report for the period January 01, 2018 to June 30, 2018 does not sufficiently cover all areas provided in AML/CFT Guidelines to tests its AML/CFT systems. The Respondent was therefore, found non-complaint with Regulation 4(d) of the AML Regulations and Regulation 16(9)(e) of the Licensing Regulations.

(c) With regard to the observation regarding the deficiencies in the compliance report, it was observed during the review that the compliance reports for the months of July, 2018 to February, 2019 did not cover the aspects of AML/CFT. The Respondent in reply to the SCN submitted a checklist for assessment of AML/CFT aspects of its house which has been duly filed on June 27, 2019 and prepared by its Chief Compliance Officer. However, previously, the Respondent had submitted a single pager document as its compliance report for the year ended June 30, 2018 which is deficient in several aspects as prescribed under AML Regulations and Guidelines. As per Regulation 18(c)(ii) of the AML Regulations, the Compliance Officer is responsible to ensure that the internal policies, procedures and controls for prevention of ML/TF are approved by the board of directors of the regulated person and are effectively implemented. The Compliance Officer of the Respondent failed implement the internal policies and procedures with respect to aspects of AML/CFT Regulations and therefore, no such document was submitted by the Respondent. Therefore, the Respondent was found non-complaint with Regulation 18(c)(ii) of the AML Regulations.

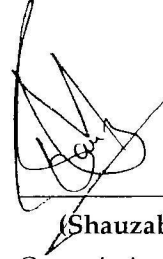
7. In view of the foregoing and admission made by the Representatives, contraventions of the provisions of AML Regulations & Licensing Regulations have been established. Therefore, in terms of powers conferred under section 40A of the Act, a penalty of Rs. 150,000/- (Rupees One hundred & fifty thousand) is hereby imposed on the Respondent. Further, in terms of powers conferred under section 150 of the Securities Act 2015, a penalty of Rs. 50,000/- (Rupees fifty thousand) is also imposed on the Respondent. The Respondent is directed to deposit the aforesaid penalty in the account of the Commission being maintained in the designated branches of MCB Bank Limited within 30 days of date this Order and furnish the original deposit challan to this Office.



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8. This Order is issued without prejudice to any other action that the Commission may initiate against the Respondent in accordance with the law on the matter subsequently investigated or otherwise brought to the knowledge of the Commission.


(Shauzab Ali)
Commissioner (SMD)

Announced on April 21, 2020
Islamabad